

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Chris Langer,

Plaintiff,

v.

Yang Hua Xi; and Does 1-10,

Defendants.

Case No.

**Complaint For Damages And
Injunctive Relief For** Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Chris Langer complains of Defendants Yang Hua Xi; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the State of California.

2. Defendant Yang Hua Xi owned the real property located at or about 5333 Hollywood Blvd., Los Angeles, California, in October 2015.

1 3. Defendant Yang Hua Xi owns the real property located at or about
2 5333 Hollywood Blvd., Los Angeles, California, currently.

3 4. Defendant Yang Hua Xi owned the Hollywood Premiere Motel
4 ("Motel") located at or about 5333 Hollywood Blvd., Los Angeles, California,
5 in October 2015.

6 5. Defendant Yang Hua Xi owns the Hollywood Premiere Motel
7 ("Motel") located at or about 5333 Hollywood Blvd., Los Angeles, California,
8 currently.

9 6. Plaintiff does not know the true names of Defendants, their business
10 capacities, their ownership connection to the property and business, or their
11 relative responsibilities in causing the access violations herein complained of,
12 and alleges a joint venture and common enterprise by all such Defendants.
13 Plaintiff is informed and believes that each of the Defendants herein,
14 including Does 1 through 10, inclusive, is responsible in some capacity for
15 the events herein alleged, or is a necessary party for obtaining appropriate
16 relief. Plaintiff will seek leave to amend when the true names, capacities,
17 connections, and responsibilities of the Defendants and Does 1 through 10,
18 inclusive, are ascertained.

19
20 **JURISDICTION & VENUE:**

21 7. This Court has subject matter jurisdiction over this action pursuant to
22 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
23 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

24 8. Pursuant to supplemental jurisdiction, an attendant and related cause
25 of action, arising from the same nucleus of operative facts and arising out of
26 the same transactions, is also brought under California's Unruh Civil Rights
27 Act, which act expressly incorporates the Americans with Disabilities Act.

28 9. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is

1 founded on the fact that the real property which is the subject of this action is
2 located in this district and that Plaintiff's cause of action arose in this district.

3
4 **FACTUAL ALLEGATIONS:**

5 10. The Plaintiff went to the Motel in October 2015 to stay the night after
6 he attended a concert in the area.

7 11. The Motel is a facility open to the public, a place of public
8 accommodation, and a business establishment.

9 12. Parking spaces are one of the facilities, privileges and advantages
10 specifically reserved by defendants to persons at the property serving the
11 Motel.

12 13. Unfortunately, although parking spaces were one of the facilities
13 available to patrons of the Motel, there was not a single compliant van-
14 accessible handicap parking space available for persons with disabilities that
15 complied with the Americans with Disability Act Accessibility Guidelines
16 (ADAAG) in October 2015.

17 14. Currently, there are no compliant, van-accessible parking spaces
18 designed and reserved for persons with disabilities in the parking lot serving
19 the Motel.

20 15. Instead, there is just a single parking space that serves persons with
21 disabilities who do not drive vans. The parking space is 96 inches in width
22 while the access aisle is 60 inches in width. This is not van accessible.

23 16. Plaintiff, on information and belief, alleges that there used to be an
24 accessible parking space designed and reserved for persons with disabilities
25 on the property prior to October 2015.

26 17. The parking lot looks to have recently been restriped. The defendants
27 likely removed the old, van-accessible parking space and replaced it with a
28 smaller parking space that is not van accessible.

1 18. Defendants had no policy or procedure in place to make sure that the
2 accessible van parking space was maintained and remained useable in the
3 parking lot in October 2015.

4 19. Defendants have no policy or procedure in place to make sure that the
5 accessible van parking space remains useable in the parking lot currently.

6 20. The plaintiff personally encountered these problems. This inaccessible
7 condition denied the plaintiff full and equal access and caused him difficulty
8 and frustration.

9 21. As a result of not being able to park at this property, plaintiff had to go
10 to another motel about two miles away. Plaintiff was able to successfully stay
11 the night nearby.

12 22. Additionally, and even though plaintiff did not personally confront the
13 barrier, the swimming pool does not have an accessible means of entrance or
14 exit and is not accessible to persons with disabilities.

15 23. Plaintiff would like to return and patronize the Motel.

16 24. Plaintiff travels, eats, and shops and otherwise patronizes businesses in
17 Los Angeles County on a regular and ongoing basis.

18 25. Because of the location of the Motel, plaintiff would like to return.

19 26. The defendants have failed to maintain in working and useable
20 conditions those features required to provide ready access to persons with
21 disabilities.

22 27. The violations identified above are easily removed without much
23 difficulty or expense. They are the types of barriers identified by the
24 Department of Justice as presumably readily achievable to remove and, in
25 fact, these barriers are readily achievable to remove. Moreover, there are
26 numerous alternative accommodations that could be made to provide a
27 greater level of access if complete removal were not achievable.

28 28. Plaintiff is and has been deterred from returning and patronizing the

1 Motel because of his knowledge of the illegal barriers that exist. Plaintiff will,
 2 nonetheless, return to the business to assess ongoing compliance with the
 3 ADA and will return to patronize Motel as a customer once the barriers are
 4 removed.

5 29. Given the obvious and blatant violation, the plaintiff alleges, on
 6 information and belief, that there are other violations and barriers on the site
 7 that relate to his disability. Plaintiff will amend the complaint, to provide
 8 proper notice regarding the scope of this lawsuit, once he conducts a site
 9 inspection. However, please be on notice that the plaintiff seeks to have all
 10 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034
 11 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,
 12 he can sue to have all barriers that relate to his disability removed regardless
 13 of whether he personally encountered them).

14 30. Additionally, on information and belief, the plaintiff alleges that the
 15 failure to remove these barriers was intentional because: (1) these particular
 16 barriers are intuitive and obvious; (2) the defendants exercised control and
 17 dominion over the conditions at this location and, therefore, the lack of
 18 accessible facilities was not an “accident” because had the defendants
 19 intended any other configuration, they had the means and ability to make the
 20 change.

21
 22 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
 23 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all
 24 defendants (42 U.S.C. section 12101, et seq.)

25 31. Plaintiff repleads and incorporates by reference, as if fully set forth
 26 again herein, the allegations contained in all prior paragraphs of this
 27 complaint.

28 32. Under the ADA, it is an act of discrimination to fail to ensure that the

1 privileges, advantages, accommodations, facilities, goods and services of any
 2 place of public accommodation is offered on a full and equal basis by anyone
 3 who owns, leases, or operates a place of public accommodation. See 42
 4 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- 5 a. A failure to make reasonable modifications in policies, practices,
 6 or procedures, when such modifications are necessary to afford
 7 goods, services, facilities, privileges, advantages, or
 8 accommodations to individuals with disabilities, unless the
 9 accommodation would work a fundamental alteration of those
 10 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 11 b. A failure to remove architectural barriers where such removal is
 12 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are
 13 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,
 14 Appendix “D.”
- 15 c. A failure to make alterations in such a manner that, to the
 16 maximum extent feasible, the altered portions of the facility are
 17 readily accessible to and usable by individuals with disabilities,
 18 including individuals who use wheelchairs or to ensure that, to
 19 the maximum extent feasible, the path of travel to the altered
 20 area and the bathrooms, telephones, and drinking fountains
 21 serving the altered area, are readily accessible to and usable by
 22 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

23 33. Any business that provides parking spaces must provide accessible
 24 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in
 25 every eight of those accessible parking spaces but not less than one must be a
 26 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991
 27 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six
 28 accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

1 34. Here, the lack of a van-accessible parking space is a violation of the
2 law.

3 35. In 2010, the DOJ adopted the 2010 Standards for Accessible Design.
4 It requires pools to have an accessible means of entry and exit for persons
5 with disabilities. The 2010 Standards establish two categories of pools: large
6 pools with more than 300 linear feet of pool wall and smaller pools with less
7 than 300 linear feet of wall. Large pools must have two accessible means of
8 entry, with at least one being a pool lift or sloped entry; smaller pools are only
9 required to have one accessible means of entry, provided that it is either a
10 pool lift or a sloped entry. See 2010 ADA Standards § 242 and 1009.

11 36. Because these pools predated the adoption of the 2010 Standards, the
12 defendants were required to modify the pools to provide the accessible means
13 of entry and exit to the extent that it was readily achievable. 42 U.S.C. §
14 12182(b)(2)(A)(iv). For an existing pool, removing barriers may involve
15 installation of a fixed pool lift with independent operation by the user or other
16 accessible means of entry that complies with the 2010 Standards. If
17 installation of a fixed lift is not readily achievable, the public accommodation
18 may then consider alternatives such as use of a portable pool lift that
19 complies with the 2010 Standards.

20 37. In the present case, the defendants have failed to provide any
21 accessible means of entry and exit at its pool. There is no excuse for this.
22 Although the Department of Justice adopted the 2010 Standards in 2010, the
23 compliance date was not until March 15, 2012 to provide business and
24 operators such as the defendants time to comply. That due date was extended
25 to May 21, 2012 to provide additional time for pool owners. That extended
26 date was again extended to September 17, 2012 and, finally, to January 31,
27 2013 to ensure maximum fairness with respect to compliance. There is no
28 further excuse.

1 38. Here, the defendants failed to provide an accessible pool and,
2 therefore, failed to provide full and equal access to wheelchair users such as
3 the plaintiff.

4 39. A public accommodation must maintain in operable working condition
5 those features of its facilities and equipment that are required to be readily
6 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

7 40. Here, the failure to ensure that the accessible facilities were available
8 and ready to be used by the plaintiff is a violation of the law.

9 41. Given its location and options, plaintiff will continue to desire to
10 patronize the Motel but he has been and will continue to be discriminated
11 against due to the lack of accessible facilities and, therefore, seeks injunctive
12 relief to remove the barriers.

13
14 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
15 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §
16 51-53)

17 42. Plaintiff repleads and incorporates by reference, as if fully set forth
18 again herein, the allegations contained in all prior paragraphs of this
19 complaint.

20 43. Because the defendants violated the plaintiffs' rights under the ADA,
21 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.
22 Code § 51(f), 52(a).)

23 44. Because the violation of the Unruh Civil Rights Act resulted in
24 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are
25 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
26 55.56(a)-(c).)

PRAYER:

Wherefore, Plaintiff prays that this court award damages and provide relief as follows:

1. For injunctive relief, compelling defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the Plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act which damages provide for actual damages and a statutory minimum of \$4,000.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

Dated: February 24, 2016 CENTER FOR DISABILITY ACCESS

By: _____
Mark Potter, Esq.
Attorneys for Plaintiff